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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA)	CASE NO. CR 15 0489 RS
)	
v.)	STIPULATION AND PROPOSED ORDER FOR
)	RE-TESTING OF DRUG EXHIBITS BY DEFENSE
ERIC MELOVICH,)	CHEMIST
)	
Defendant.)	

STIPULATION

Based upon a stipulation of the parties, and pursuant to Federal Rule of Criminal Procedure 16(a)(1)(E), the Court ORDERS as follows:

The government shall allow the defense: (1) to independently inspect the following drug exhibits:

Case Number BK-15-0006, DEA Exhibit 1, LIMS Number 2015-SFL7-01481

Case Number BK-15-0006, DEA Exhibit 2, LIMS Number 2015-SFL7-02059

as reported in the Drug Enforcement Administration (DEA) Laboratory Reports for Case Number BK-15-0006, dated August 28, 2015; (2) to collect and analyze a representative sample from the above-listed exhibits to determine its weight, nature, and strength or purity; and (3) to inspect and analyze the composite representative samples (if any) previously collected and analyzed by the DEA to determine

1 their weight, nature, and strength or purity, to the extent that said samples have not been consumed
2 during testing; and

3 IT IS FURTHER ORDERED that a DEA Special Agent or Task Force Officer shall deliver the
4 drug exhibits and DEA composite representative samples (if any) identified above to Judy Stewart at
5 Forensic Analytical Sciences, Inc. located at 3777 Depot Road Suite 403 Hayward, CA 94545-2761.
6 The DEA Western Laboratory shall arrange the delivery of said exhibits no later than ten days after this
7 Order is signed to the DEA Special Agent or Task Force Officer for delivery to Forensic Analytical
8 Sciences; and

9 IT IS FURTHER ORDERED that upon delivery of the exhibits identified above to the defense
10 expert, that a DEA Special Agent or Task Force Officer shall be present when the defense expert
11 inspects, weighs, and removes a representative sample from each of the exhibits identified above for
12 analysis. The representative sample shall be in the amount of 250 mg from each of the above-described
13 exhibits. The weight of the representative sample taken shall be documented and signed by the defense
14 expert and provided to the DEA Special Agent or Task Force Officer in attendance. Upon the
15 completion of the sample removal and weighing, the defense expert shall forthwith return the remaining
16 above-listed exhibits to the DEA agent or Task Force Officer in attendance; and

17 IT IS FURTHER ORDERED that the defense expert shall conduct the qualitative and
18 quantitative analysis (calculated as the hydrochloride salt form) and identification ordered herein, and
19 shall provide the government with an Unsworn Declaration Under Penalty of Perjury, under 28 U.S.C. §
20 1746, executed by the individual who conducted the analysis, or the head of the facility where the
21 analysis occurred, which states the quantity of the exhibits consumed during testing, and either the
22 weight of the exhibits returned to the government, or a statement that all of the sample was consumed
23 during drug testing; and

24 IT IS FURTHER ORDERED that all remaining material of the samples, after testing, is to be
25 returned by Judy Stewart at Forensic Analytical Sciences to DOJ 5770 Skylane Boulevard, Windsor, CA
26 95492, Attn: Kenneth Richardson, via registered U.S. mail, return receipt requested, or approved
27 commercial carrier, within five (5) business days after the completion of analysis; and

28 IT IS FURTHER ORDERED, in accordance with Federal Rule of Criminal Procedure

16(b)(1)(B), that the defendant shall promptly provide the government with a copy of the results or report of the physical examinations and scientific tests or experiments which resulted from the analysis conducted under this Order in the event that the defendant intends to use the results or report in the defendant's case-in chief at trial or in sentencing; and

IT IS FURTHER ORDERED that Judy Stewart at Forensic Analytical Sciences is to safeguard the representative samples received, preserving the chain of custody in a manner to faithfully protect the integrity of each exhibit received.

DATED: 4/4/16


HON. RICHARD SEEBORG
United States District Judge

APPROVED AS TO FORM:

DATED:

/s/
PETER GOODMAN
Counsel for Eric Melovich

DATED:

/s/
SARAH HAWKINS
Assistant United States Attorney